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September 4, 2024

By ECF

Hon. Michael M. Baylson
United States District Court
for the Eastern District of Pennsylvania
3810 U.S. Courthouse
601 Market St.
Philadelphia, PA 19106

Re: Gainey a/k/a Naree Abdullah v. Philadelphia, 2:22-cv-04143-MBB

Dear Judge Baylson:

On behalf of the Philadelphia District Attorney's Office ("DAO"), I write to correct the misleading impressions left by Plaintiffs' letter filed late last night (ECF No. 85). As a non-party, DAO takes no position on Plaintiffs' request for a deadline extension.

Plaintiffs write that DAO produced "ten documents" on July 19; "twenty documents" on July 30; and "3 documents" on August 30. That is inaccurate. On those dates, DAO produced *that number of PDF files*. The PDF files, in aggregate, contain several *thousand* pages of documents scanned from DAO's archive files and obtained from the Conviction Integrity Unit's hard-copy and electronic files.

Next, Plaintiffs write that DAO provided a flash drive at 4:50 PM yesterday. That is grossly misleading for two reasons.

First, the flash drive (which is much smaller than 1 terrabyte) contains the same documents that had been produced to Plaintiffs previously via a OneDrive share folder. It is not a new production of documents. These are materials Plaintiffs already had access to.

Second, it was provided at 4:50 PM yesterday, not because DAO has been dilatory, but because *Plaintiffs waited until yesterday afternoon to ask for technical assistance with the share folder that had been open to them since July, and at 3:56 PM they requested that we provide the production in an alternate form*. Upon receiving that request, I personally copied the already-produced files to a flash drive, I personally walked over to Plaintiffs' office, and I personally handed it to Plaintiffs' paralegal—all done within an hour of receiving their request. And I continued to make efforts into the evening to assist Plaintiffs' paralegal with the technical issues

she had in opening the flash drive. Attached as Exhibit A is the e-mail correspondence regarding the flash drive.

DAO's Civil Litigation Unit is small, consisting of only two lawyers and two paralegals. It strained our resources to scan and produce several thousand pages of documents to Plaintiffs in July. It was frustrating to learn that Plaintiffs had not downloaded those productions when we first made them available. It has also been frustrating to see how Plaintiffs have portrayed our team's efforts to the Court.

Respectfully,

/s/ Daniel Margolskee

Daniel Margolskee
Supervisor, Civil Litigation
Assistant District Attorney
Office of the District Attorney
of Philadelphia
Three South Penn Square
Philadelphia, PA 19107-3499
215-686-5734
daniel.margolskee@phila.gov

Encls.

CERTIFICATE OF SERVICE

I certify that, on September 4, 2024, I caused to be served upon counsel of record for all parties by ECF a true and correct copy of the within letter and Exhibit A.

September 4, 2024

/s/ Daniel P. Margolskee
DANIEL P. MARGOLSKEE

EXHIBIT A

Re: Gainey/Trice v. City of Philadelphia, No. 2:22-cv-4143-MMB (E.D. Pa.)

Daniel Margolskee <Daniel.Margolskee@phila.gov>

Tue 9/3/2024 7:15 PM

To: Marquita Brown-Minkins <marquita@minceyfitzross.com>

That happens for me too, when I inserted it initially. Then if you open the drive, it should ask for a password.

—

Daniel P. Margolskee
Assistant District Attorney
Supervisor, Civil Litigation

From: Marquita Brown-Minkins <marquita@minceyfitzross.com>

Sent: Tuesday, September 3, 2024 7:05:54 PM

To: Daniel Margolskee <Daniel.Margolskee@phila.gov>

Subject: Re: Gainey/Trice v. City of Philadelphia, No. 2:22-cv-4143-MMB (E.D. Pa.)

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Won't open on a non Mac either. I'm

Getting a message that says its file system isn't supported. At a loss of how to get access to the documents

Marquita Brown-Minkins, Paralegal

MINCEY FITZPATRICK ROSS LLC

One Liberty Place

1650 Market Street, 36th Floor

Philadelphia, Pa 19103

On Sep 3, 2024, at 5:14 PM, Daniel Margolskee <Daniel.Margolskee@phila.gov> wrote:

For security, our flash drives now come pre-installed with encryption using bitlocker. A PC should be able to open it, or I think there may be 3rd party applications that can open it on a Mac.

From: Marquita Brown-Minkins <marquita@minceyfitzross.com>
Sent: Tuesday, September 3, 2024 5:09:52 PM
To: Daniel Margolskee <Daniel.Margolskee@phila.gov>
Subject: Re: Gainey/Trice v. City of Philadelphia, No. 2:22-cv-4143-MMB (E.D. Pa.)

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Fyi - the flash drive is giving an error also 😂😂😂.

<image0.jpeg>

Marquita Brown-Minkins, Paralegal

MINCEY FITZPATRICK ROSS LLC
One Liberty Place
1650 Market Street, 36th Floor
Philadelphia, Pa 19103

On Sep 3, 2024, at 4:46 PM, Daniel Margolskee <Daniel.Margolskee@phila.gov> wrote:

I'm downstairs

—

Daniel P. Margolskee
Assistant District Attorney
Supervisor, Civil Litigation

From: Marquita Brown-Minkins <marquita@minceyfitzross.com>
Sent: Tuesday, September 3, 2024 4:43:36 PM
To: Daniel Margolskee <Daniel.Margolskee@phila.gov>
Subject: Re: Gainey/Trice v. City of Philadelphia, No. 2:22-cv-4143-MMB (E.D. Pa.)

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Thank you!

Marquita Brown-Minkins, Paralegal

MINCEY FITZPATRICK ROSS LLC
One Liberty Place

1650 Market Street, 36th Floor
Philadelphia, Pa 19103

On Sep 3, 2024, at 4:41 PM, Daniel Margolskee <Daniel.Margolskee@phila.gov> wrote:

Great - I'm outside city hall, walking over now

—
Daniel P. Margolskee
Assistant District Attorney
Supervisor, Civil Litigation

From: Marquita Brown-Minkins <marquita@minceyfitzross.com>
Sent: Tuesday, September 3, 2024 4:39:07 PM
To: Daniel Margolskee <Daniel.Margolskee@phila.gov>
Subject: Re: Gainey/Trice v. City of Philadelphia, No. 2:22-cv-4143-MMB (E.D. Pa.)

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Yes I can

Marquita Brown-Minkins, Paralegal
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ONE LIBERTY PLACE
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Philadelphia, PA 19103
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Fax: 215-587-0628

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On Tue, Sep 3, 2024 at 4:33 PM Daniel Margolskee <Daniel.Margolskee@phila.gov> wrote:
I am copying it over to a flash drive. If I walk over to your building now, could someone meet me in your lobby in about 10 minutes? I can swing by on my way to Suburban Station.

Or if you prefer, you can pick it up at the DAO security desk.

The flash drive will have an encryption password: [REDACTED]

--

Daniel P. Margolskee
Assistant District Attorney
Supervisor, Civil Litigation
215-686-5734

From: Marquita Brown-Minkins <marquita@minceyfitzross.com>
Sent: Tuesday, September 3, 2024 4:04 PM
To: Daniel Margolskee <Daniel.Margolskee@phila.gov>
Cc: kevin@minceyfitzross.com <kevin@minceyfitzross.com>; Zainab Ali <zainab@minceyfitzross.com>; Shawn Page <shawn@minceyfitzross.com>; Daniel Cerone <Daniel.Cerone@Phila.gov>; Jennie Doran <Jennie.Doran@Phila.gov>; Alan Pentalieri <Alan.Pentalieri@phila.gov>
Subject: Re: Gainey/Trice v. City of Philadelphia, No. 2:22-cv-4143-MMB (E.D. Pa.)

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All please - it appears to have only downloaded parts of the prior productions unfortunately.

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On Tue, Sep 3, 2024 at 4:01 PM Daniel Margolskee <Daniel.Margolskee@phila.gov> wrote:
Absolutely - we can get a flash drive ready for you.

Do you need all of the productions? Or just the one from last week?

--

Daniel P. Margolskee
Assistant District Attorney
Supervisor, Civil Litigation
215-686-5734

From: Marquita Brown-Minkins <marquita@minceyfitzross.com>
Sent: Tuesday, September 3, 2024 3:56 PM
To: Daniel Margolskee <Daniel.Margolskee@phila.gov>
Cc: kevin@minceyfitzross.com <kevin@minceyfitzross.com>; Zainab Ali <zainab@minceyfitzross.com>; Shawn Page <shawn@minceyfitzross.com>; Daniel Cerone <Daniel.Cerone@Phila.gov>; Jennie Doran <Jennie.Doran@Phila.gov>; Alan Pentalieri <Alan.Pentalieri@phila.gov>
Subject: Re: Gainey/Trice v. City of Philadelphia, No. 2:22-cv-4143-MMB (E.D. Pa.)

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I am still having issues downloading for some reason - its giving an error after a few minutes of the download. Is it possible for it to be sent on a flashdrive or disc?

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On Tue, Sep 3, 2024 at 12:51 PM Daniel Margolskee <Daniel.Margolskee@phila.gov> wrote:
This link should work: ☐ [Abdullah-Gainey Production](#) If you have any difficulty downloading any of the materials, please let me know.

Separately, we are in receipt of the Court's order of August 21. As I read it, none of the provisions of that Order are directed to DAO. But if you have any questions about DAO's document production, or if there are any issues you want to address that involve DAO as a non-party to the litigation, please let me know. I'd be happy to have a meet and confer call, and hopefully we can resolve it. Thanks.

Dan Margolskee

--

Daniel P. Margolskee
Assistant District Attorney
Supervisor, Civil Litigation
215-686-5734

From: Marquita Brown-Minkins <marquita@minceyfitzross.com>
Sent: Tuesday, September 3, 2024 12:30 PM
To: Daniel Margolskee <Daniel.Margolskee@phila.gov>
Cc: kevin@minceyfitzross.com <kevin@minceyfitzross.com>; Zainab Ali <zainab@minceyfitzross.com>; Shawn Page <shawn@minceyfitzross.com>; Daniel Cerone <Daniel.Cerone@Phila.gov>; Jennie Doran <Jennie.Doran@Phila.gov>; Alan Pentalieri <Alan.Pentalieri@phila.gov>
Subject: Re: Gainey/Trice v. City of Philadelphia, No. 2:22-cv-4143-MMB (E.D. Pa.)

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Good Afternoon;

I cannot locate the One Drive link previously sent. Would you kindly resent it.

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On Thu, Aug 29, 2024 at 5:42 PM Daniel Margolskee <Daniel.Margolskee@phila.gov> wrote:
Counsel:

Please see the enclosed letter regarding DAO's third production of documents in Gainey v. City of Philadelphia, 2:22-cv-4143-MMB (E.D.Pa.).

--

Daniel P. Margolskee

Assistant District Attorney
Supervisor, Civil Litigation
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